California Performance Review
Proposals to Address Workers' Compensation and Disability Retirements

In recognizing the demands of Californians for changes in government, Governor Schwarzenegger directed a sweeping reassessment of state government in Executive Order S-5-04, known also as the "California Performance Review (CPR)." In the CPR's September 2004 report, "A Government for the People, for a Change," three proposals addressed workers' compensation, disability retirement, or related topics:

> *Public Safety Proposal #11* – Change existing law to help CALPERS Investigations Unit prosecute disability fraud cases. CALPERS has extensive responsibility over disbursement and protection of the retirement and disability funds for members of that retirement system. An investigations unit is currently in place to investigate possible abuse of the retirement system. This proposal recommends that the Government Code be modified to clearly define what constitutes disability retirement fraud, the penalties to be imposed and to deny or reduce payments to those convicted of retirement fraud. The proposal also recommends that CALPERS merge investigative functions under a unified state agency.
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> *State Operations Proposal #27* – This proposal recommends that at the Governor's direction, DPA, or its successor immediately begin developing the requirements for a statewide workers' compensation case management tool. It is further recommended that these requirements be completed by July 1, 2005.
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> *State Operations Proposal #51* – This proposal is designed to revisit the criterion that defines the "safety retirement" classification for state employees and the need to limit this designation to employees who truly protect the public. At the Governor's direction, DPA and the State Personnel Board (SPB) would be required to use traditional safety criteria to determine safety membership status.

The text of the CPR proposals along with the discussion from their report is reproduced on the following pages. This CHP report to the Governor is consistent with the intent of the CPR proposals, and expands the range of solutions proposed to address Departmental problems.

Change Existing Law to Help the Investigations Unit Within the California Employees' Retirement System to Prosecute Disability Fraud Cases

Summary

The California Public Employees' Retirement System (CalPERS) maintains an Investigations Unit that employs seven full-time investigators. The unit's primary function is to review those disability claims where there are indicators of possible fraud or abuse. Current law hinders their ability to investigate and prosecute disability fraud cases, and is inconsistent with laws governing other state agencies' anti-fraud units. State statutes should be amended to assist the CalPERS Investigation Unit in investigating and prosecuting disability fraud.

Background

The California Public Employees' Retirement System (CalPERS) administers retirement and health benefits to more than 1.4 million past and present state and local government employees. This includes retirement, disability, and death benefits; administration of Social Security coverage for state employees; and the development, negotiation, and administration of contracts with a number of health maintenance organizations, group hospitals, and medical insurance plans.

Participants in the system's programs include state employees, classified school employees, volunteer firefighters, judges, legislators, and any other public employees whose employer has contracted for benefits administered by CalPERS.

CalPERS is managed by a Board of Administration (the Board) whose officers have a fiduciary duty to protect the trust fund from inappropriate payment of benefits. In 1992, voters approved Proposition 162, which gives the CalPERS Board plenary (complete) authority over the administration of CalPERS operations. The measure, in essence, gave the Board the sole and exclusive authority of the investment and administration of the system's resources, except for the health benefits program, which is funded from the Public Employees' Contingency Reserve Fund.[1] The Investigation Unit falls within the legal office under the administration branch and is therefore independently controlled by the CalPERS Board. The Penal Code defines the investigators as peace officers.[2]

CalPERS retirement benefits

The basic types of retirement benefits CalPERS provides include:

- Service retirement or "normal" retirement for those eligible, based on age and years of service.
- Disability retirement for members who become disabled and can no longer perform duties of their jobs.
- Industrial disability retirement for eligible employees whose job-related injuries or illnesses resulted in disability.

Retirement benefits are computed using years of service, age at retirement and final compensation. A member's retirement formula is calculated by the membership category, which is determined based on occupation; employing agency and Government Code; the contract between their employer and CalPERS; and tier in which the member is enrolled.[3]

Current duties of the Investigation Unit

Currently, the CalPERS Investigation Unit is comprised of one supervising special investigator, five senior special investigators and one special investigator. The unit's major function is to investigate and, if necessary, prosecute disability retirement fraud. These types of cases are complex and sensitive because of the health issues associated with disability retirements.[4]

The following is a breakdown of the three major disability investigative functions performed by this unit:

- *Disability/Pre-Determination*—These cases involve people who are in the initial stages of the disability retirement process and there is some indication of possible fraud or abuse. Investigators can check these cases by verifying information in medical reports, conducting surveillance and contacting employer witnesses. Any additional information is then submitted to the examining doctors and CalPERS disability evaluation staff. This verification process may support the denial of non-meritorious claims.
- *Disability Appeals*—These are cases where CalPERS has denied a member's application for disability retirement, and the member has appealed the decision and requested an administrative hearing. The legal office handles these hearings and often refers case information to the investigation unit for appropriate investigative action.
- *Reinstatements*—This type of case involves returning to work those people who are no longer disabled, often involving members who are in the public safety retirement category. These individuals, regardless of age or service, can collect half their salary and other "final compensation" for life if granted an Industrial Disability Retirement. After being approved for Industrial Disability Retirement, their condition may improve to the point they are capable of returning to work. An investigation may be conducted to determine if the member is no longer disabled.[5]

The Investigation Unit mostly focuses on Industrial Disability Retirement, as it normally pays out the highest level of benefits. Other state agencies with similar units include the California Highway Patrol, Department of Insurance and the Department of Corrections.

Oftentimes an investigation will uncover both workers' compensation fraud as well as disability fraud. The California Department of Insurance, for example, can use the Insurance Code to file charges of workers' compensation fraud.[6] CalPERS, however, must use more general Penal Code violations, such as presenting false claims, grand theft, or perjury since there are no specific codes for disability fraud. Some prosecutors may be reluctant to use these more general Penal Code sections to file charges in a disability fraud case, since they do not always reflect the true nature of the crime. As a result, violators are often charged only with a workers' compensation violation.

In some circumstances, even when a member is found guilty of Penal Code violations in a disability fraud case, the member may not lose their disability benefits. In order for a member to lose disability benefits, the worker must have a job offer and a start date from an employer.[7] This requirement has made it difficult to keep the member from receiving benefits or requiring the member to pay restitution.

In 1987, CalPERS estimated the average total savings resulting from the denial of a disability claim for a public safety member to be $182,000.[8] The calculation was based on 18 cases of members claiming an Industrial Disability Retirement. These members had an average of six years of service and an average age of 34 at the time of their claims. If all 18 cases had been won on appeal or dropped by the member, the potential savings to the state would have been nearly $3.3 million. It should be noted that the number of members who are eligible for safety retirement has increased substantially since this memorandum was prepared. For example, the number of sworn peace officers has increased significantly in the past 15 years within the Department of Corrections.

Therefore, every member who fraudulently obtains a disability benefit and is properly prosecuted could save the CalPERS Retirement Fund substantial funds, and to a lesser extent the state General Fund, which supplements the Retirement Fund.

The validations system

In 1996, a Disability Validation Team (DVT) was established at CalPERS, which included both Investigations Unit staff and Retirement Program Specialists. DVT utilizes a set of "yellow flag" indicators to better identify and prioritize cases for further review. Generally, all claims involving certain medical conditions (orthopedic, stress, and psychiatric, for example), or where claims are employer-originated and the member contests, are reviewed. The yellow flag indicators are a consolidated list of indicators compiled by a number of local and state agencies.

Recommendations

A. **The Governor should work with the Legislature to amend the Government Code to clearly define what constitutes disability retirement fraud, the penalties to be imposed and to deny or reduce retirement allowances for individuals convicted of disability retirement fraud.**

Amending the Government Code would make the law governing disability retirement fraud more consistent with laws regarding other types of fraud, such as workers' compensation fraud. It would also assist the CalPERS Investigation Unit in successfully prosecuting individuals for disability retirement fraud, and may provide a deterrent for CalPERS members.

B. **The Governor recommend to the CalPERS Board of Administration that it merge investigative functions under a unified state agency.**

Fiscal Impact

While there are anticipated savings for the first recommendation as a result of program improvements, they cannot be estimated. The second recommendation could result in functions being consolidated and they would come intact with their respective personnel and appropriate budget appropriation. It is anticipated that any positions needed to support the functions will become available as a result of the efficiencies generated by the consolidation.

Endnotes

1 *Department of Finance, Governor's Budget 2004–05 (January 9, 2004), http://www.documents.dgs.ca.gov/osp/GovernorsBudget05/pdf/scs.pdf (last visited March 6, 2004).*

2 *Pen. C. Section 830.3(h).*

3 *California Public Employees' Retirement System, "CalPERS Retirement Benefits," http://www.calpers.ca.gov/index.jsp?bc=/about/benefits-overview/retirement/retirement-benefits.xml (last visited June 21, 2004).*

4 *Letter from Investigation Unit, CalPERS Legal Office to California Performance Review, Public Safety Team (March 10, 2004).*

5 *Letter from Steven Donald, chief investigator, California Public Employees' Retirement System to California Performance Review, Public Safety Team (March 10, 2004).*

6 *Ins. C. Section 1871.4.*

7 *Letter from Steven Donald, chief investigator, California Public Employees' Retirement System to California Performance Review, Public Safety Team (June 15, 2004).*

8 *Memorandum from Steven Donald, chief investigator, California Public Employees' Retirement System (CalPERS), to John Decker, legislative analyst, CalPERS (January 21, 1987).*

California Should Create a Statewide Solution to Manage State Employees' Workers Compensation Claims

Summary

Workers' compensation expenses for state government totaled nearly $502 million in Fiscal Year 2002–2003. Standardized case management tools and processes could save the state a minimum of $5 million per year. California state agencies must create their own case management process and tools to manage employee workers' compensation cases. Some entities have purchased add-ons to their recently procured human resource software to manage these cases. Most, however, continue to use spreadsheets, "home-built" databases, or manual processes.

Background

The workers' compensation program provides for medical benefits and compensation to employees who are injured on the job. While the Department of Personnel Administration contracts with the State Compensation Insurance Fund (SCIF) for workers' compensation benefits, technology solutions are not part of what SCIF offers. SCIF is planning to release a case management interface to its online claims submission in early July 2004 to enable departments to extract case information.[1] While this is a step in the right direction, it is not a case management tool.

A coordinated effort—between the employer, employee, treating physician and claims professional—results in quicker recovery times for employees and lower cost to the state.[2]

In order to properly manage each case, departments need current, accurate data from SCIF and from medical providers in order to confirm an employee's health status and any possible work restrictions. Departments can save money and increase productivity when they are able to find limited duty positions for recovering employees elsewhere within the department. It usually costs less for a department to purchase adaptive equipment for an employee, if necessary, than it does to pay a month's compensation for an injured employee. Departments can also save money by avoiding delays in returning employees to work.

There are specific, event-driven steps to case management. For example, an injured employee is first assessed by a physician, who submits the report to the employee's department. The employee and his/her manager discuss recommended time off. There will be follow-up examinations, physical therapy, etc. Without a comprehensive automated case management tool which uses a calendaring feature, many departments must rely on partially automated or heavily manual processes with cumbersome methods. This means excessive processing time and missed opportunities to speedily return employees to work in limited capacities.

Some departments have moved toward automation. The California Department of Transportation is piloting an integrated case management module from PeopleSoft.[3] The California Department of Forestry and Fire Protection uses a Microsoft Access case management database created in 1998 to track its open caseload.[4] The California Highway Patrol uses a custom solution by Oracle developed in 1995–1996.[5]

The Franchise Tax Board (FTB) is implementing CompWatch, a commercial off-the-shelf software solution. FTB has an estimated 6,000 permanent full-time employees and an additional workforce of 1,000 seasonal staff. It generates approximately 15 to 20 new workers' compensation claims per month, with an average annual caseload of 290 active cases, which is small in comparison to that of larger departments. Five full-time staff manage these cases and process paperwork in an effort to meet its compliance regulations and to return the employees to work as soon as possible.[6]

Even before implementing its automated case management tool, FTB's workers' compensation program was considered well managed.[7] However, FTB wanted a more frequent review of each case in order to follow up on details from medical providers and determine actual working condition limitations so that staff could return to work more quickly.[8]

Another benefit from a standard tool is that it allows caseworkers who move from department to department to do so without having to be retrained, making them effective from their first day on the job. Sufficiently trained and motivated caseworkers are a component that cannot be leveraged without adequate standards and tools.

State law requires employers to report workers' compensation claims within five to 14 days, depending on the form used.[9] However, it takes an average of 12 working days for most claims to be submitted to SCIF.[10] There are numerous reasons for delays. For example, an employee and his/her supervisor may be offsite and unable to complete claims immediately, such as when a state firefighter is injured fighting a forest fire which lasts ten days. The employee may leave but his/her supervisor may have to remain on the fire lines for some days after the injury occurs.

It is important for claims to get to SCIF as quickly as possible. It keeps costs down and increases the likelihood of returning employees to work as soon as possible. While penalties for late filing are rare, there is a significant cost associated with late filing. A claims adjuster has 90 days from the date of injury to accept or deny a workers' compensation claim. Considering the lead time necessary to get the employee to a medical provider for an assessment is generally 60 days, losing time in those first few weeks can result in acceptance of claims by default that should have been denied. That, in turn, increases the overall cost to the state.

Recommendation

The Governor should direct the Department of Personnel Administration or its successor to immediately begin developing the requirements for a statewide workers' compensation case management tool. These requirements should be completed by July 1, 2005.

This system must include electronic interfaces with medical providers where available and with the State Compensation Insurance Fund. It must also interface with the State Controller's Office 21st Century Project, which will be a payroll database, since payroll information is essential to proper case management and claims reporting. The portion of the 21st Century Project necessary for implementing an automated workers' compensation solution is scheduled for implementation in FY 2007–2008. The workers' compensation case management solution should be implemented in FY 2008–2009.[11]

Fiscal Impact

The one-time cost to acquire a standard Workers' Compensation case management system that integrates with the State Controller's new payroll system is estimated to be less than $5 million, with $25,000 annual operating costs. Department of Personnel Administration has estimated that the cycle time for processing all claims, except permanent disability and vocational rehabilitation, could be reduced by 1 percent to 9 percent with a standard case management system. Assuming a dollar savings proportionate to the cycle time improvement, these claim types, which currently cost about $380 million annually, could have an annual cost reduction of $4 million to $34 million with this tool.

General Fund
(dollars in thousands)

Fiscal Year	Savings	Costs	Net Savings (Costs)	Change in PYs
2004–05	$0	$2,500	($2,500)	0
2005–06	$2,000	$12	$1,988	0
2006–07	$2,000	$12	$1,988	0
2007–08	$2,000	$12	$1,988	0
2008–09	$2,000	$12	$1,988	0

Note: The dollars and PYs for each year in the above chart reflect the total change for that year from FY 2003–04 expenditures, revenues and PYs.

Other Funds
(dollars in thousands)

Fiscal Year	Savings	Costs	Net Savings (Costs)	Change in PYs
2004–05	$0	$2,500	($2,500)	0
2005–06	$2,000	$13	$1,987	0
2006–07	$2,000	$13	$1,987	0
2007–08	$2,000	$13	$1,987	0
2008–09	$2,000	$13	$1,987	0

Note: The dollars and PYs for each year in the above chart reflect the total change for that year from FY 2003–04 expenditures, revenues and PYs.

Endnotes

1 *Interview with Colette R. Barritt, state contract services consultant, State Compensation Insurance Fund, Sacramento, California (May 6, 2004).*

2 *State Compensation Insurance Fund, "The Three Keys to Savings", http://www.scif.com/pdf/may2004_reform/3_keys.pdf (last visited June 13, 2004).*

3 *Interview with Dave Schaefer, return to work coordinator, California Department of Transportation, Sacramento, California (May 21, 2004).*

4 *Interview with Susan Magnuson, California Department of Forestry, Sacramento, California (June 2, 2004).*

5 *Interview with Jovita Vierria, California Highway Patrol, Sacramento, California (June 2, 2004).*

6 *Interview with Ronda Ellingsworth, workers' compensation manager, California Franchise Tax Board, Sacramento, California (March 19, 2004 and May 17, 2004).*

7 *Interview with Sue Kane, workers' compensation program manager, Department of Personnel Administration, Benefits Division (May 6, 2004 and May 17, 2004).*

8 *Interview with Ronda Ellingsworth, workers' compensation manager, California Franchise Tax Board, Sacramento, California (March 19, 2004 and May 17, 2004).*

9 *Labor C. section 6409.1.*

10 *Interview with Sue Kane.*

11 *California State Controller's Office, "21st Century Project Feasibility Study Report" (Sacramento, California, February 13, 2004), pp. 5–14.*

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Controlling Enhanced Retirement Costs

Summary

Legislation established enhanced retirement plans in California to compensate employees who protect the public. These employees must remain physically fit because they are at severe risk of injury or death in the course of their duties. Over time, however, union negotiations and legislation have increased the number of so-called "safety" designations by granting them to employee groups that do not meet established safety criteria. The purpose and applicability of safety designations should be reviewed to ensure that safety status criteria are well defined and applied consistently so the state does not accrue unnecessary costs.

Background

When Chapter 700 of the Statutes of 1931 created the California Public Employees' Retirement System (CalPERS), all state members received the same retirement benefits.[1] In 1935, the first "safety" category was created for the California Highway Patrol (CHP) and included an enhanced retirement formula in addition to special industrial death and disability benefits. In 1947, firefighters and fish and game wardens also received improved retirement benefits and since then, many other employee groups have received safety status as well.[2]

Due to the increasing number of employee groups attempting to achieve safety status through legislation, AB 927 was passed in 1974 mandating the State Personnel Board (SPB) to establish criteria for safety membership and determine which classes in the civil service met the criteria.[3] The established criteria relied primarily on the following two principles: 1) the employee is actively engaged in protecting the public and 2) there is an expectation that the employee be physically fit in order to accomplish this duty.

> ***Defining the term "safety"***
> Safety retirements and industrial disabilities are a confusing topic, made more so by the fact that there are several retirement plans referred to as "safety" as well as a single and specific retirement plan called "State Safety." In this paper, the term "safety" refers to all employees who work in the categories of California Highway Patrol (CHP), State Peace Officer and Firefighter (PO/FF), and State Safety. The term "State Safety" refers to just the State Safety retirement plan.

In response to the State Employer-Employee Relations Act of 1977, the Department of Personnel Administration was created in 1979 to represent the Governor in collective bargaining. As a result of collective bargaining, another safety category was created for Peace Officers and Firefighters (PO/FF) in 1984.[4]

In 1996, DPA began to study the method used to determine safety membership and concluded it was overly cumbersome and lengthy. In response, AB 528 was passed in 1998 and granted increased authority to DPA and SPB to determine safety status via the collective bargaining process without the need for accompanying legislation. The criteria for membership in the "state safety" classifications was modified to require all of the following:
1) the protection and safeguarding of the public and property, 2) the control and supervision of inmates, youthful offenders, and state mental facility Penal Code offenders, and 3) the capability to respond in emergency situations and to provide a level of service to the public such that the safety of the public and of property is not jeopardized, as part of the conditions of employment.[5]

In 1999, SB 400 was passed and enhanced the retirement formulas as shown in Exhibit 1. This bill re-opened the door to safety legislation as an increasing number of employee groups argued for their right to be part of the safety retirement system without going through DPA and SPB safety status criteria and collective bargaining process.

Exhibit 1
SB 400 Enhanced Retirement Benefits

Retirement Plan	Before	After
State Miscellaneous, Tier 1	2% at 60	2% at 55
California Highway Patrol (CHP)	2% at 50	3% at 50
State Peace Officers & Firefighters (PO/FF)	2.5% at 55	3% at 55
State Safety	2% at 55	2.5% at 55

Source: Office of Senate Floor Analyses, Senate Bill SB 400, Senate Rules Committee, 1999[6]

The current situation
In 2001, Governor Gray Davis signed SB 183. Effective July 1, 2004, this bill will bypass the established safety status criteria and reclassify 3,500 miscellaneous tier 1, tier 2, and industrial employees to the safety retirement classifications. The cost of providing these enhanced retirements is about $8.9 million annually.[7] The reclassification includes members who work as milk inspectors, DMV examiners and CHP dispatchers.[8]

According to the bill's sponsor, the California Union of Safety Employees (CAUSE), these reclassifications will help recognize their members for the public safety work they do and will place most of their members under the same retirement formula, thus resolving an issue that tended to divide their membership.[9]

Enhanced retirement benefits
Safety employees receive enhanced retirement benefits to encourage them to retire earlier than employees grouped into the state's miscellaneous and industrial retirement plans. This benefit is based on the presumption that safety members in their late 50s and 60s are physically less capable of apprehending criminals, rescuing people, and responding quickly in emergencies.

The enhanced benefits include an increased retirement formula, a retirement cap that discourages them from working past a set age, and an industrial disability retirement that ensures that they will receive financial support in the event they are substantially injured in the course of their duties.

Safety membership is growing

As a whole, safety retirement memberships have grown significantly in the past few years. Exhibit 2 shows that from 1998 to 2003, CHP membership has grown 64.3 percent, Police Officers and Firefighters have grown 30.6 percent, and State Safety membership is up 39.8 percent.

Exhibit 2
Retirement Memberships by Category

Plans	Data as of June 30 each year						6 year changes by	
	1998	1999	2000	2001	2002	2003	Members	Percent
Tier 1	102,287	103,898	131,306	145,727	158,244	158,687	56,400	55.1%
Tier 2	42,602	54,111	34,912	25,097	18,222	16,384	-26,218	-61.5%
Industrial	8,093	8,980	9,277	9,374	9,105	9,144	1,051	13.0%
Safety	10,801	13,766	13,972	15,262	15,436	15,103	4,302	39.8%
PO/FF	31,810	38,021	39,155	40,598	40,560	41,531	9,721	30.6%
CHP	6,370	6,542	6,557	6,677	6,830	10,463	4,093	64.3%
Total	201,963	225,318	235,179	242,735	248,397	251,312	49,349	19.6%

Source: CalPERS—State & Schools Actuarial Valuation, Summary of Participant Data, 1998 through 2003

California's retirement contribution costs

Increases in the number of Safety, Peace Officer/Firefighter and Highway patrol memberships are significant because, as shown in Exhibit 3, the state's annual retirement contribution costs for these safety employees are far greater than the costs for miscellaneous tier 1, tier 2, and industrial employees.

Exhibit 3

California Retirement Plan Rates and Contributions

Plans	Basic Benefit [a] Per Year of Service [b]	Basic Benefit [a] When Retiring at Age	Contributions Employee Contribution [c]	Contributions 2003–04 State Contribution
Miscellaneous:				
Tier 1	2.0%	55	5%	14.8%
Tier 2	1.25	65	–	10.3
Industrial	2	55	5	11.1
Safety	2.5	55	6	21.9
Peace Officer/Firefighter	3	55	8	20.3
Highway Patrol	3	50	8	32.7

[a] Benefits vary by age, with smaller percentages at younger ages and higher percentages at ages above those listed in some cases.

[b] Percent of highest salary for 12 consecutive months.

[c] Pursuant to collective bargaining agreements, some employees at the present time pay none or only a portion of the amount shown.

Source: Legislative Analyst's Office, Analysis of the 2004-05 Budget Bill, Alternative Retirement Benefit Programs, 2/1/2004

Recommendations

A. **The Governor should direct the Department of Personnel Administration (DPA), or its successor, and request that the State Personnel Board (SPB), or its successor, use traditional safety criteria to determine safety membership status.**

The pertinent question is: At what level of risk should the state offer enhanced retirement packages? The SPB and DPA should reevaluate and update the state's safety status criteria and monitor and advise the Governor on all legislation affecting safety retirement memberships.

The criteria should also include the standard of "primary refusal" in addition to the criteria of "public protection" and "physical fitness." In short, if an employee can refuse to respond in an emergency, then they do not meet the criteria for safety status.[10] An example of "primary refusal" would be a scenario whereby an angry person enters a state building with a handgun. Most employees would refuse to respond and would instead dive under their desk to escape. A safety member, however, would be bound by their job duties to respond and it would be a clear dereliction of their duties if they did not.

B. The Governor should direct the Department of Personnel Administration, or its successor, to replace the use of safety designations with industrial memberships.

The purpose of safety retirement is to encourage "public protective" and "physically fit" employees to retire earlier and as such, it makes little sense to offer the same retirement benefits to employees in classifications that may improve over time such as psychiatrists and podiatrists. The Department of Personnel Administration, or the successor entity, should reward hard-to-recruit employees with better pay and industrial death and disability benefits instead of safety retirement. Reclassifying these classes from "safety" to "industrial" ensures that employees who work in risky jobs are compensated by pay and insurance in case of injury, but are not encouraged to retire early. This also reduces the number of safety retirement members, which in turn reduces the state's overall retirement contributions.

C. The Governor should request the California Public Employee's Retirement System to re-examine the state's industrial disability presumptions.

As the costs of disability retirements continue to rise due to an increasing number of safety members, it would benefit the state to re-examine the Government Codes to determine if all of the presumptions in place are accurate and substantiated by empirical evidence. CalPERS should review the current criteria used to determine industrial disability and compare it with actuarial risk data used by insurance companies. The administration should use the results of this study to sponsor legislation that makes the criteria accurate and cost effective.

Fiscal Impact

Recommendations A and B

Exhibit 4 assumes an average salary of about $52,000 per employee and shows that the state's retirement contribution costs for state safety retirement employees are significantly higher than the costs for industrial employees.

Exhibit 4
California Retirement Plans

Plans [a]	Per Year of Service [b]	When Retiring at Age	Employee Contribution [c]	2003–04 State Contribution	Average Salary (Rounded)	State's annual contribution
Miscellaneous:						
Tier 1	2.0%	55	5%	14.8%	52,000	7,696
Tier 2	1.25	65	-	10.3%	52,000	5,356
Industrial	2	55	5	11.1%	52,000	5,772
Safety	2.5	55	6	21.9%	52,000	11,388
Peace Officer/Firefighter	3	55	8	20.3%	52,000	10,556
Highway Patrol	3	50	8	32.7%	52,000	17,004

[a] Benefits vary by age, with smaller percentages at younger ages and higher percentages at ages above those listed in some cases.

[b] Percent of highest salary for 12 consecutive months.

[c] Pursuant to collective bargaining agreements, some employees at the present time pay none or only a portion of the amount shown.

The state's annual retirement contribution is about $11,388 for a state safety employee and about $7,696 for an industrial employee resulting in a difference of about $5,516 per employee per year. As such, if only 100 state safety employees are reclassified to the industrial retirement plan, the state would realize an annual savings of about $.5 million. If 500 state safety employees were reclassified, the savings would equal about $2.8 million per year.[11]

The retirement system may also realize a savings from these reclassifications in the form of decreased annual benefit costs. Exhibit 5 assumes that an employee has 25 years of service and an average salary of about $52,000. The annual benefit paid by CalPERS for a state safety employee is about $32,500 while the benefit for an industrial employee is about $26,000. The annual retirement benefit cost difference between these is about $6,500 per employee per year.

Exhibit 5
Annual Benefit for Retirement Plans

Plans	Per Year Of Service	Years of Service	Average Salary (Rounded)	Annual Benefit
Miscellaneous:				
Tier 1	2.0%	25	52,000	26,000
Tier 2	1.3%	25	52,000	16,250
Industrial	2.0%	25	52,000	26,000
Safety	2.5%	25	52,000	32,500
Peace Officer/ Firefighter	3.0%	25	52,000	39,000
Highway Patrol	3.0%	25	52,000	39,000

If 100 employees were reclassified from the state safety plan to the industrial plan, then the retirement system would realize an average annual savings of about $650,000. If 500 employees were reclassified, then the savings would increase to about $3.2 million per year.

Recommendation C

There would be no additional administrative costs for this; however, no fiscal savings may result since reducing the number of presumptions in the California Government Code may result in an increase in the number of lawsuits brought by employees against the state. An example of the types of lawsuits may be an employee trying to prove that fighting fires caused their lung cancer, as opposed to a heavy cigarette smoking habit.

Endnotes

1 *Gov. C. Section 20000.*

2 *California Public Employees' Retirement System, Office of Governmental Affairs, "Agenda Item 5, Safety Membership Legislation, to Members of the Benefits and Program Administration Committee" (Sacramento, California, October 16, 2001).*

3 *AB 927, Sacramento, California, 1974.*

4 *Little Hoover Commission, "Too Many Agencies, Too Many Rules: Reforming California's Civil Service" (Sacramento, California, April 1995), p. 13.*

5 *Memorandum from the State Personnel Board, Merit Employment and Technical Resources Division, to State Personnel Board (June 8–9, 2004).*

6 *Senate Rules Committee, "Office of Senate Floor Analyses, SB 400," (Sacramento, California, 1999).*

7 *Senate Rules Committee, "Office of Senate Floor Analyses, SB 183," (Sacramento, California, 2001).*

8 *John Hill and Dorothy Korber, "Pension Jackpot, Many more winning safety-worker label," "Sacramento Bee" (May 9, 2004).*

9 *Senate Rules Committee, "Office of Senate Floor Analyses, SB 183."*

10 *California Public Employees' Retirement System, "The Journal: California's Public Retirement News Source" (Sacramento, California, February/March, 1999).*

11 *Legislative Analyst's Office, "Analysis of the 2004–05 Budget Bill, Alternative Retirement Benefit Programs" (Sacramento, California, February 1, 2004).*